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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jill E. Wood et al.

Examiner: F. Higel

Serial No.: 09/755,060

Group Art Unit: 1626

Filed: January 8, 2001

Title: INHIBITION OF RAF KINASE ACTIVITY USING ARYL UREAS

**BRIEF ON APPEAL**

Mail Stop  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**Real Party in Interest**

This application is assigned to Bayer Pharmaceutical Corporation by means of an assignment filed at reel 014125, frame 0545.

**Related Appeals and Interferences**

There are no known related appeals or interferences.

**Status of Claims**

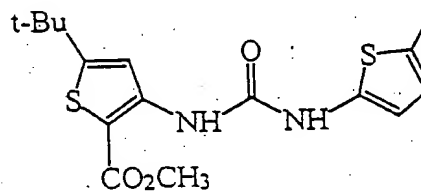
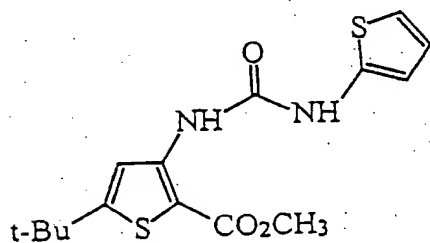
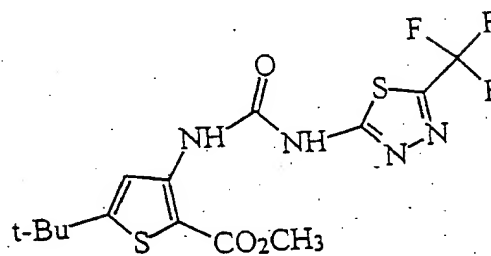
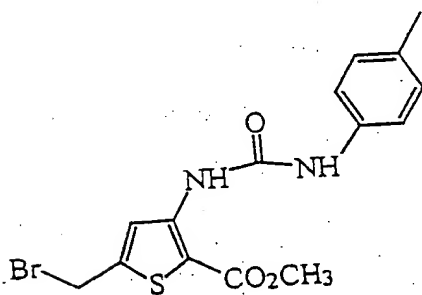
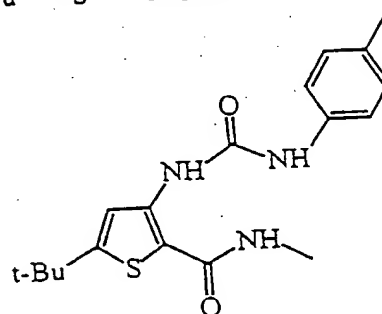
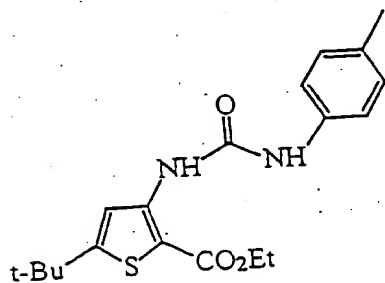
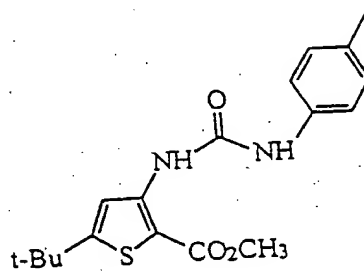
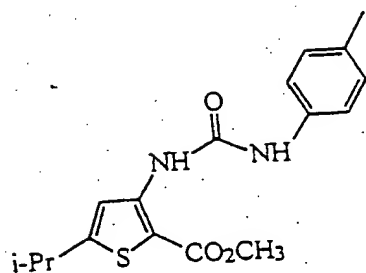
Claims 18-31 are pending in the present application, and are all on appeal.

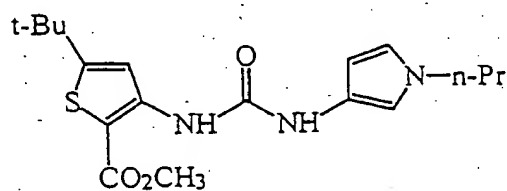
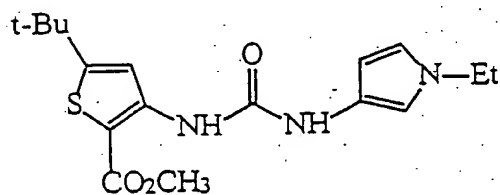
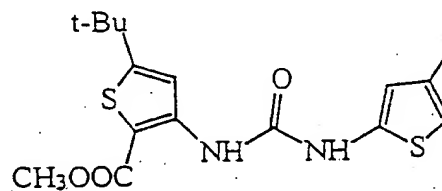
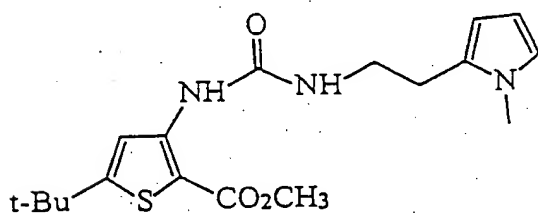
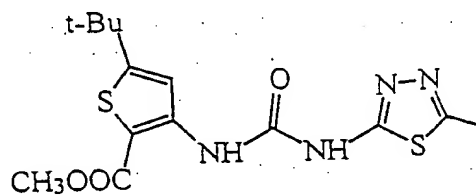
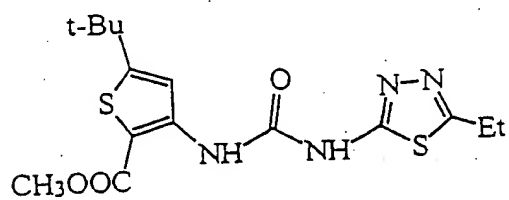
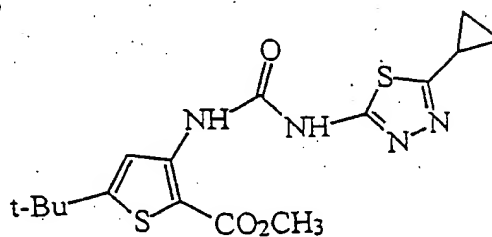
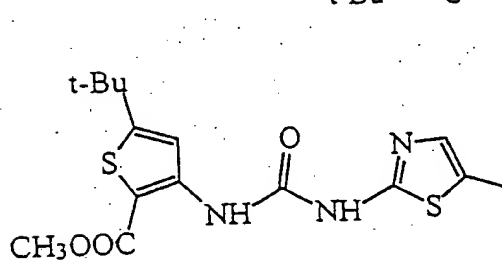
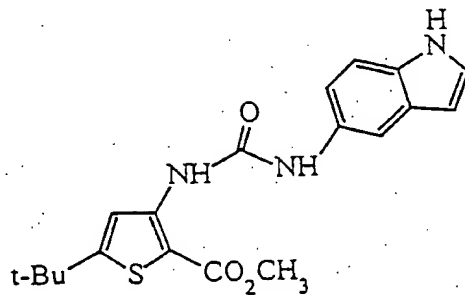
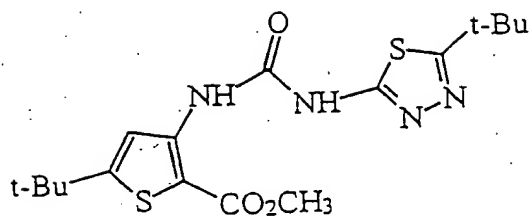
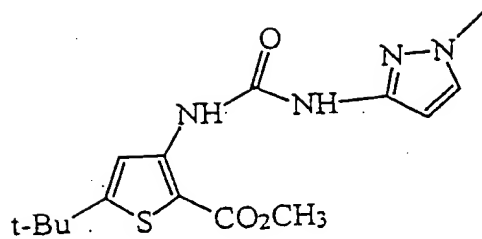
**Status of Amendments**

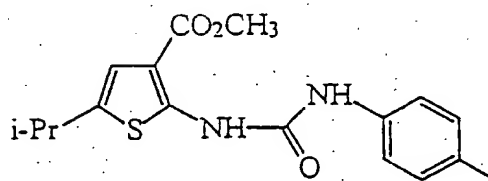
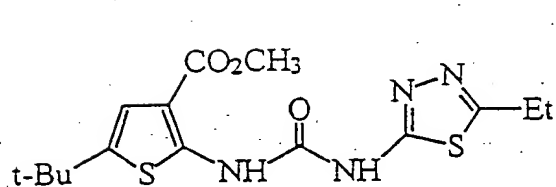
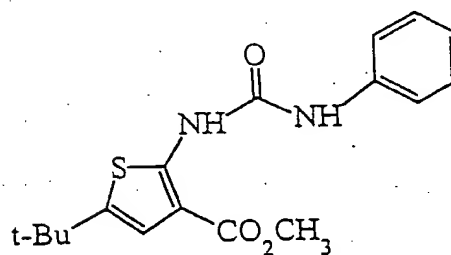
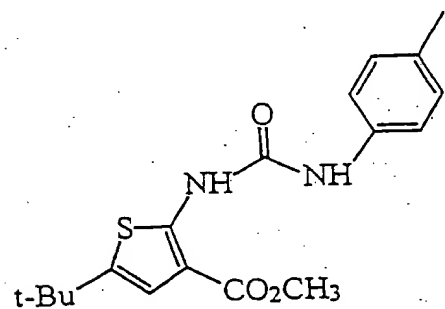
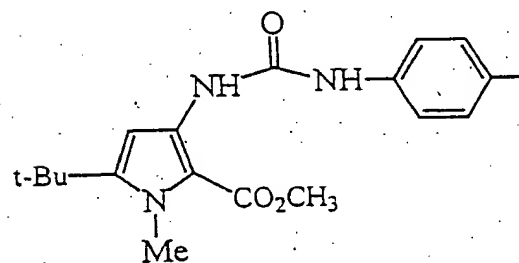
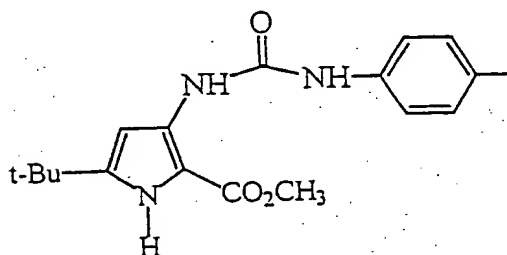
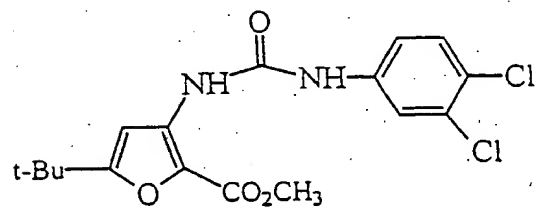
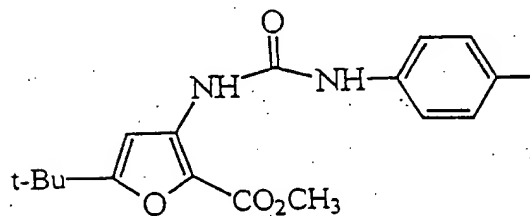
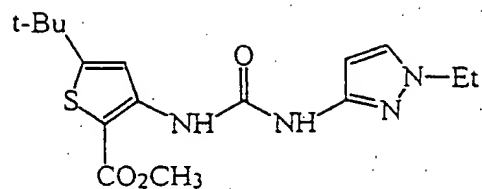
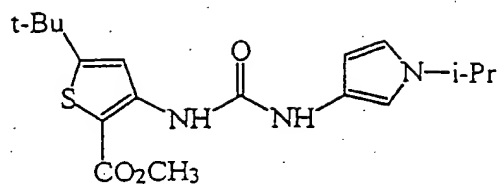
There were no amendments filed subsequent to final rejection.

### Summary of Invention

The present application is drawn to 29 compounds of the formulae:







or

See, for example, the specification at page 1, line 30 through page 5, line 9.

### Issues

The only issue for consideration on this appeal is whether the claims of the present application are obvious under the doctrine of obviousness-type double patenting.

### Argument

The only issue outstanding in this appeal is whether the present application, claiming 29 compounds, is obvious over the parent application, which recites 30 compounds. The basis for the rejection appears to be "significant" overlap between the compounds claimed between the two applications, with the parent application in fact claiming all of the 29 compounds claimed herein.

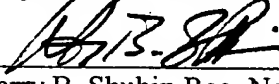
It is respectfully submitted that a rejection under the doctrine of *obviousness-type* double patenting requires that the claim of the referenced patent render *structurally obvious* later claims. See, for example, *In re Bratt*, 937 F.2d 586, 19 U.S.P.Q.2d 1289 (Fed. Cir. 1991).

It is respectfully submitted that no motivation is present for one of ordinary skill in the art to delete, from the claims of the parent, the 30th compound. It is submitted that motivation is necessary in order to support an obviousness rejection, see *In re Laskowski*, 10 U.S.P.Q.2d 1397 (Fed. Cir. 1989). Since an obviousness-type double patenting rejection is but an obviousness rejection, it is submitted that motivation to make the change has not been established and, thus, the rejection fails.

It is submitted that the rejection of record should be overturned.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted

  
\_\_\_\_\_  
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Attorney for Applicant(s)

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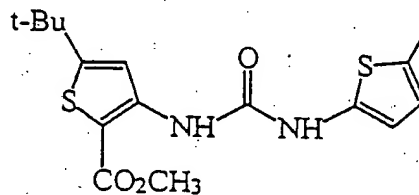
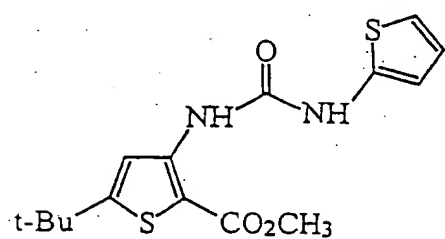
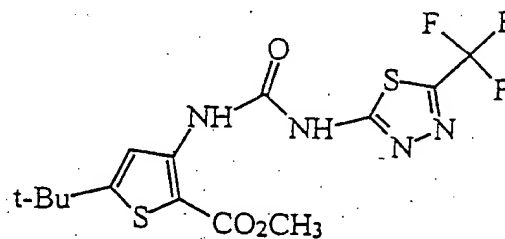
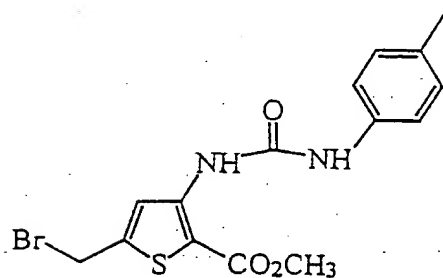
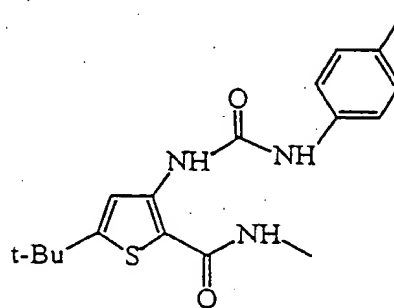
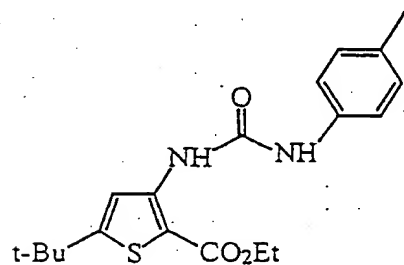
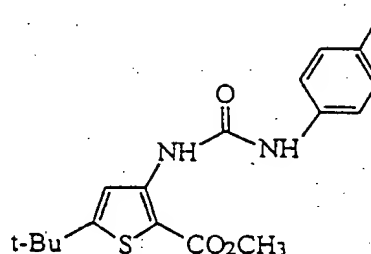
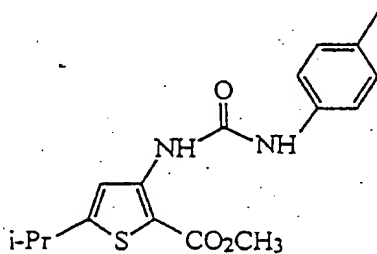
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Date: March 5, 2004

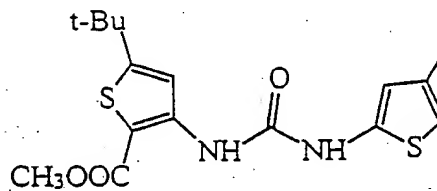
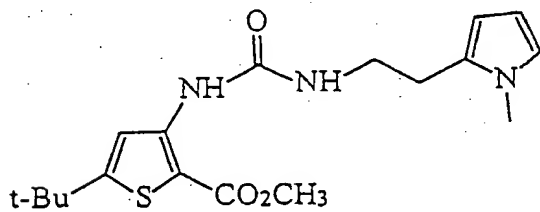
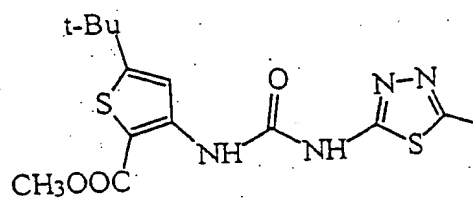
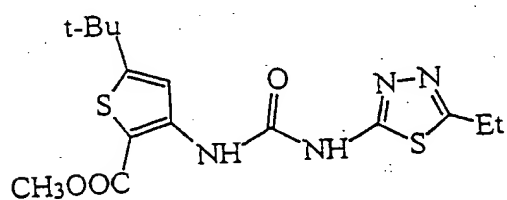
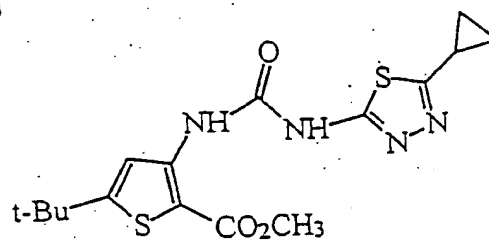
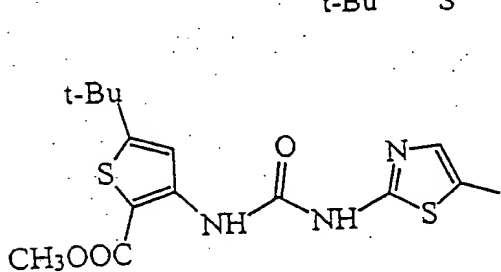
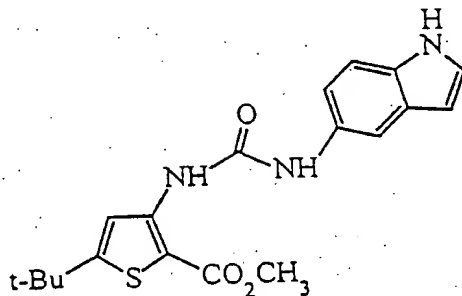
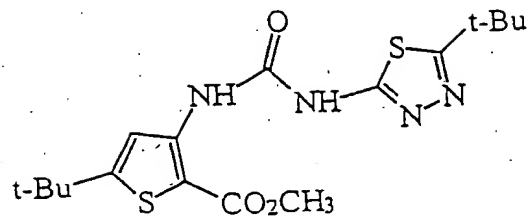
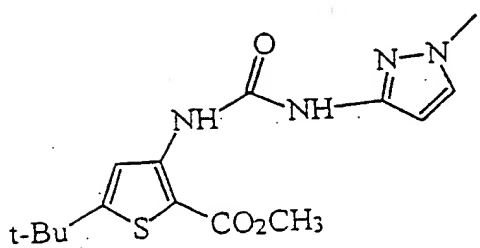
# APPENDIX

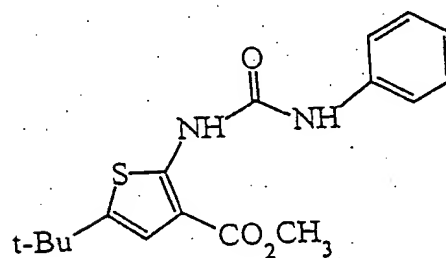
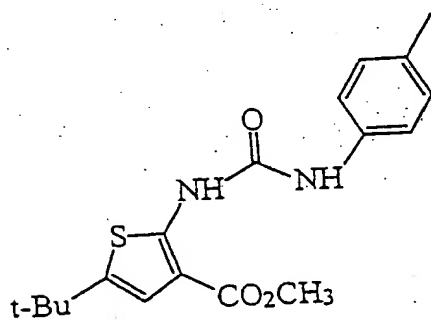
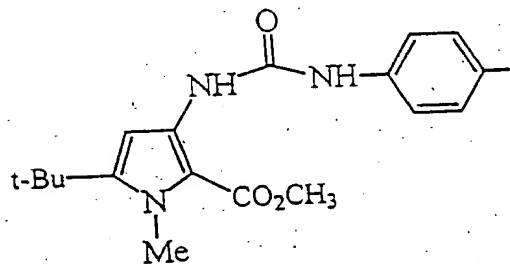
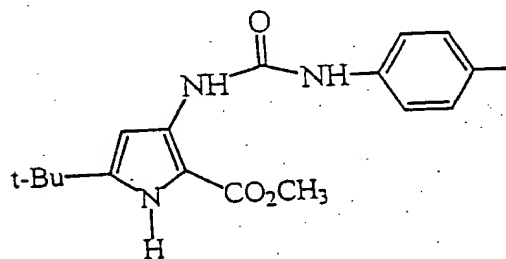
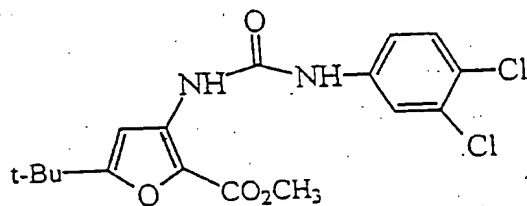
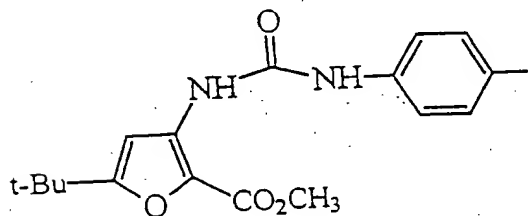
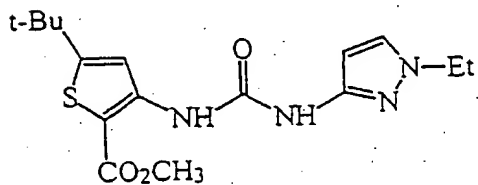
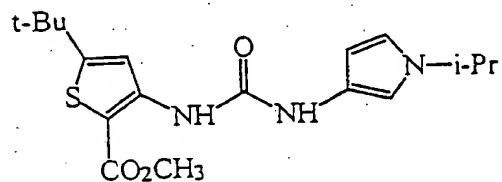
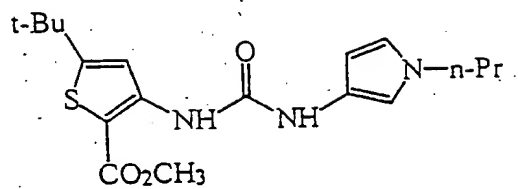
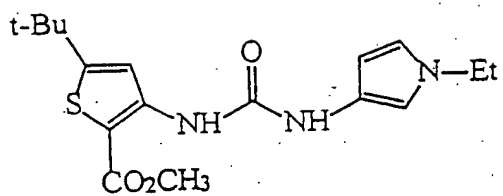
Cancel claims 1 to 17 without prejudice or disclaimer

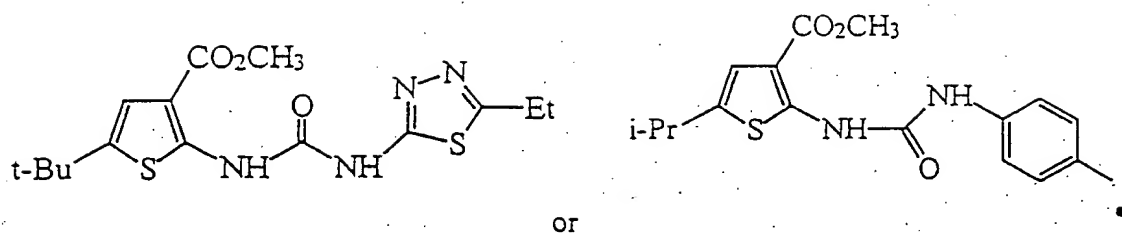
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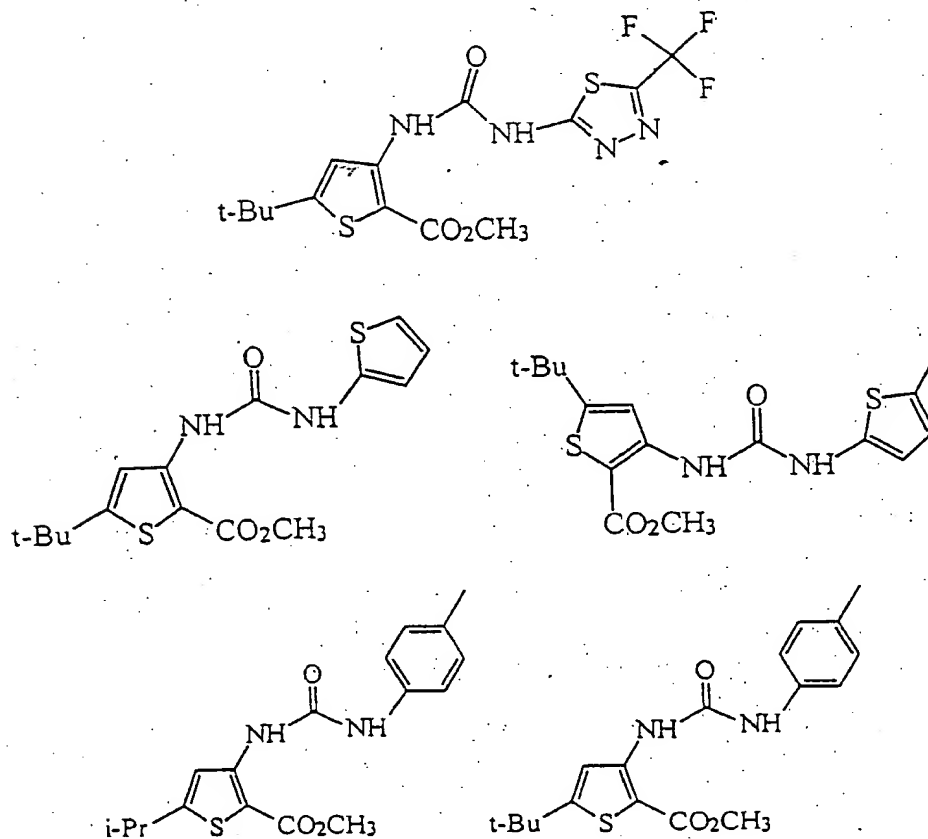


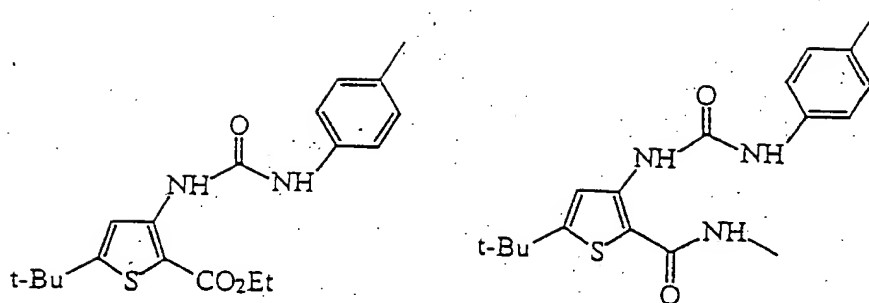






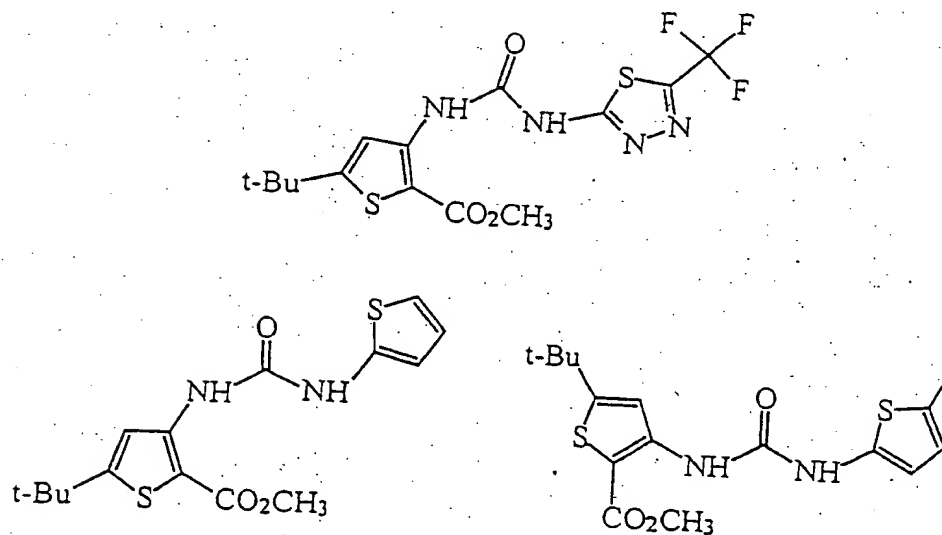
19. A method according to claim 18, comprising administering a compound of the formulae

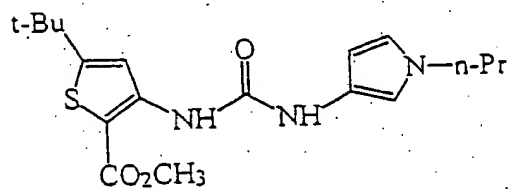
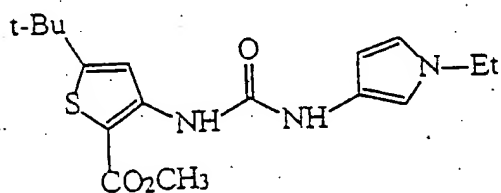
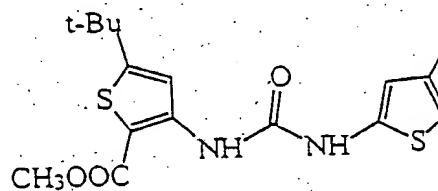
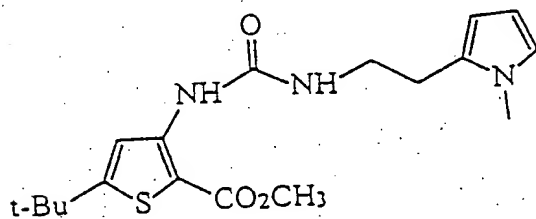
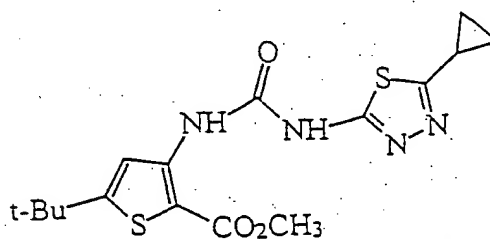
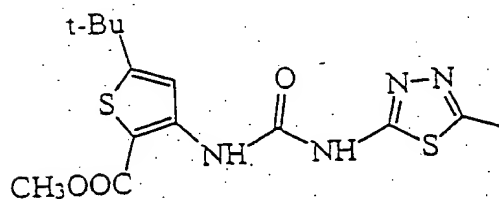
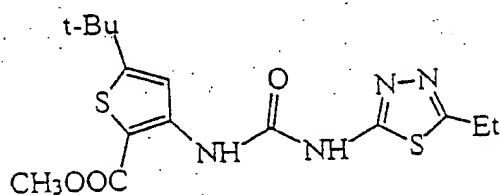
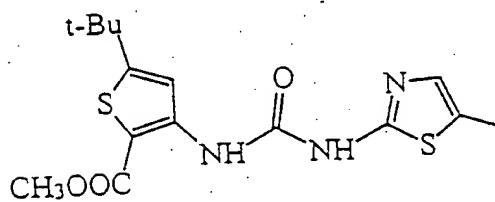
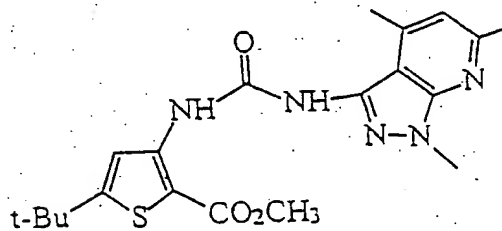
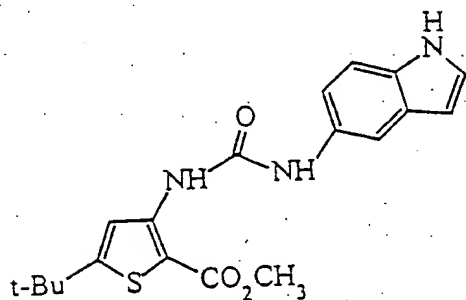
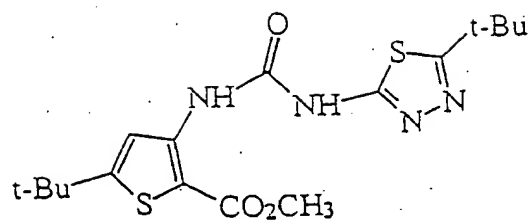
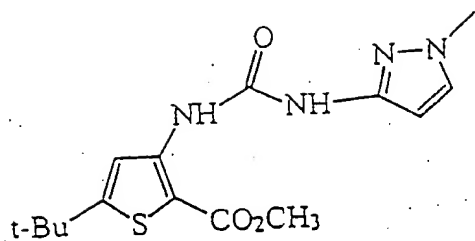


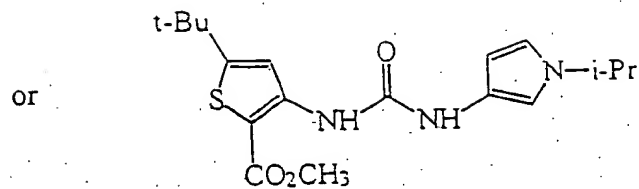


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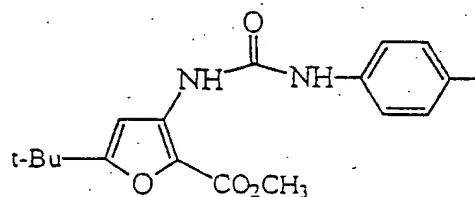
20. A method according to claim 18, comprising administering a compound of the formulae



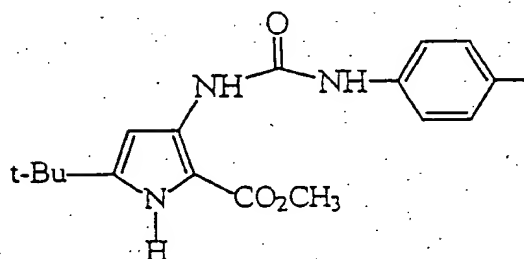




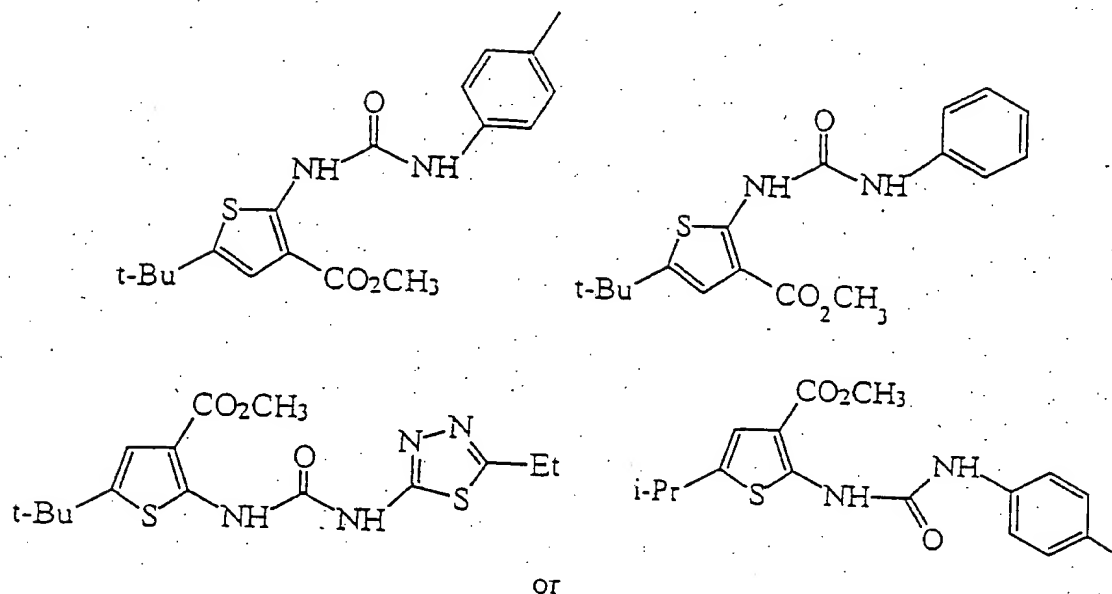
21. A method according to claim 18, comprising administering a compound of the formula



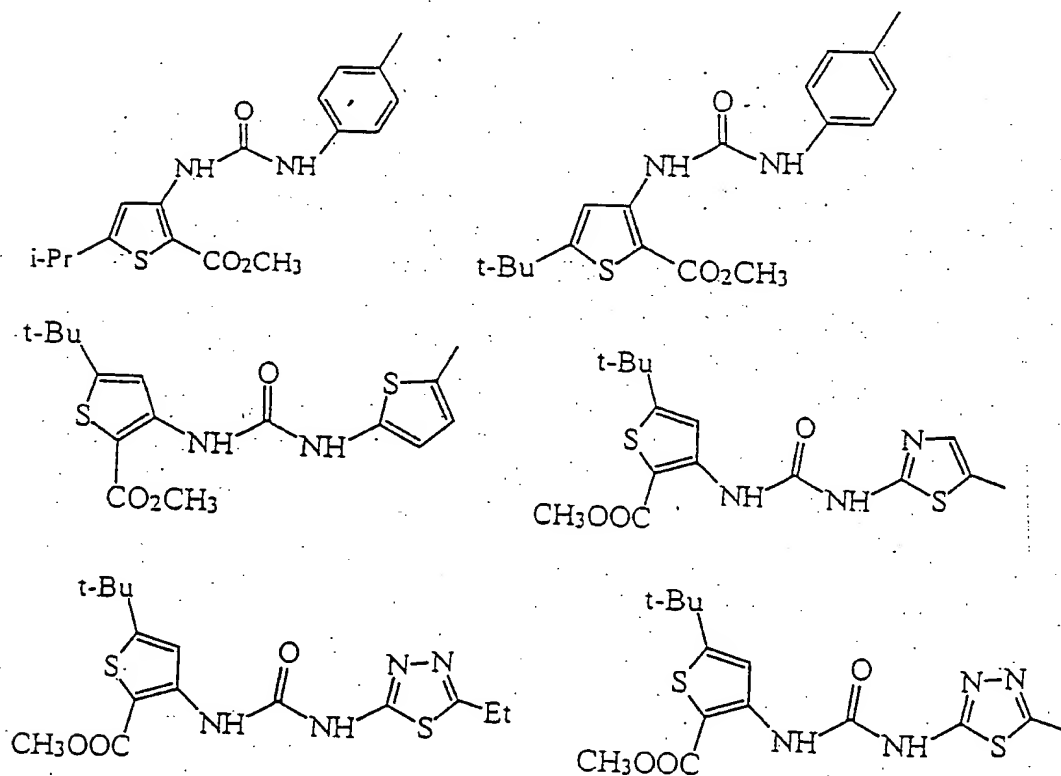
22. A method according to claim 18, comprising administering a compound of the formula



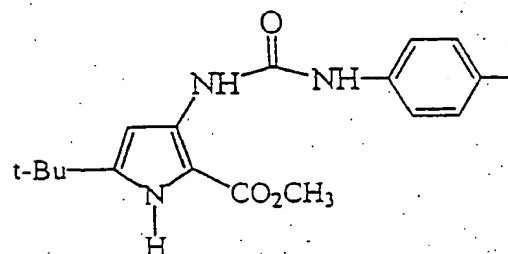
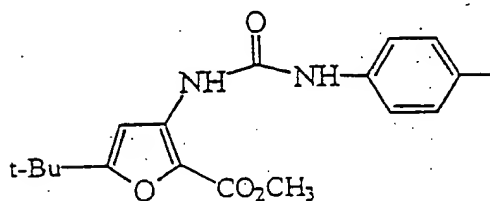
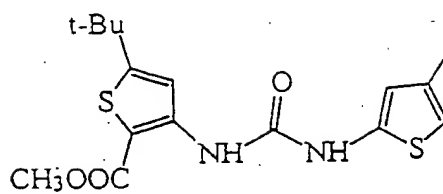
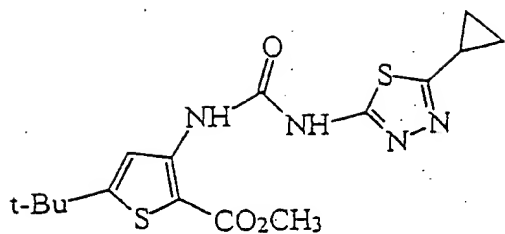
23. A method according to claim 18, comprising administering a compound of formulae



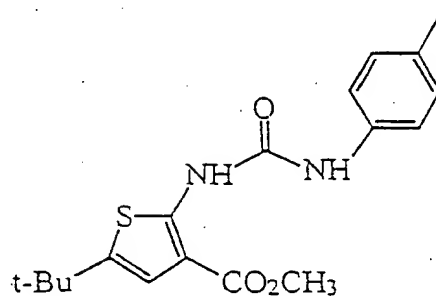
24. A method according to claim 18, comprising administering a compound of formulae



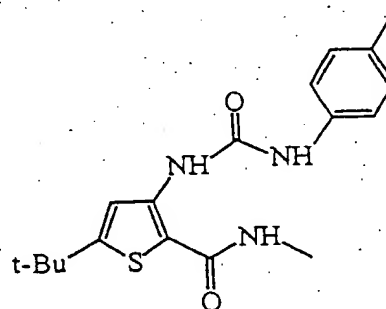
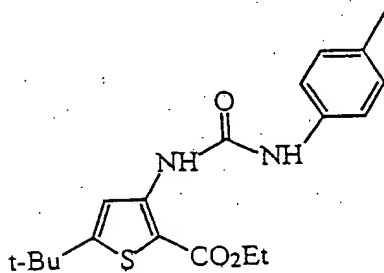
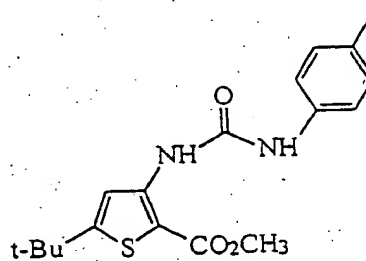
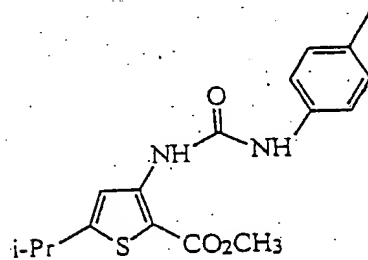
DOCKET NO.: BAYER-0001-D01



or

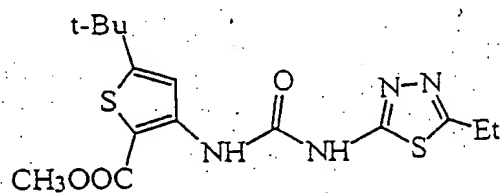
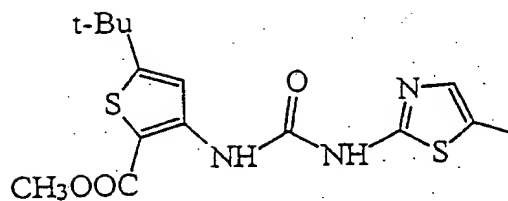
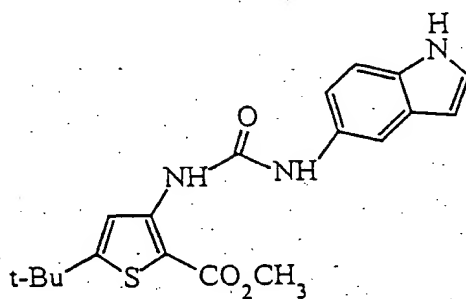
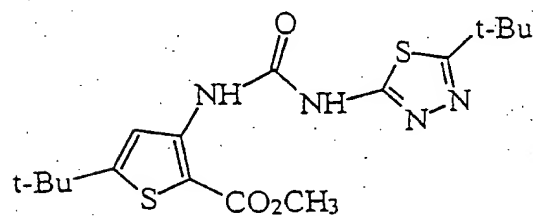
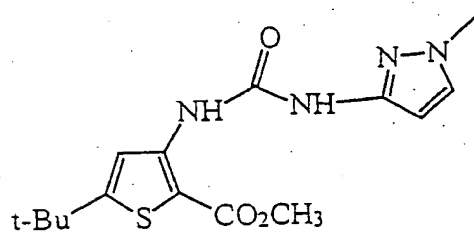
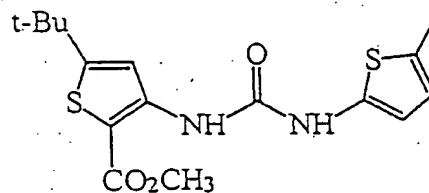
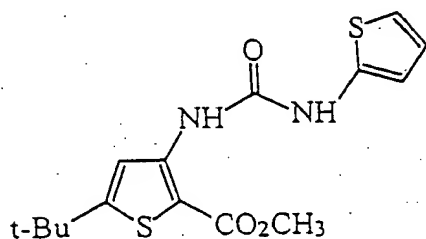
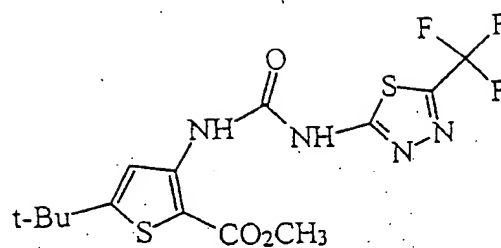
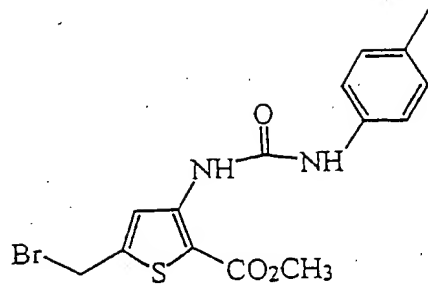


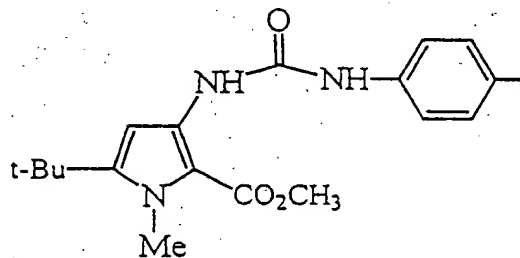
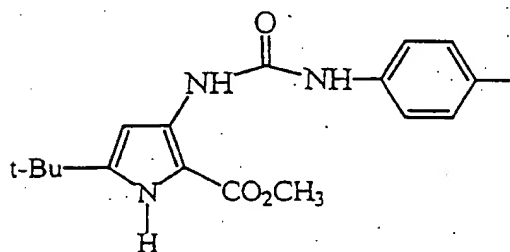
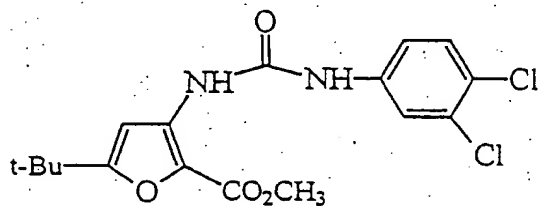
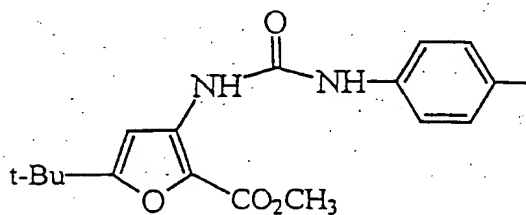
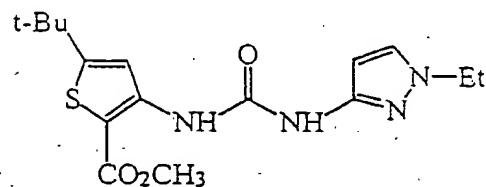
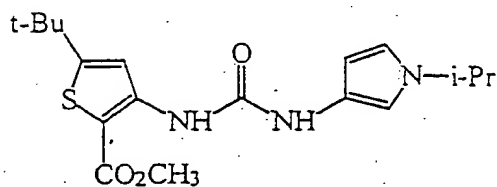
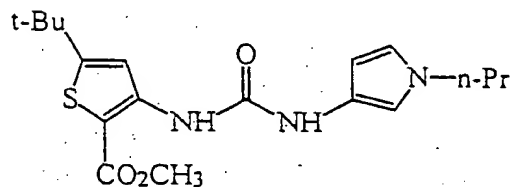
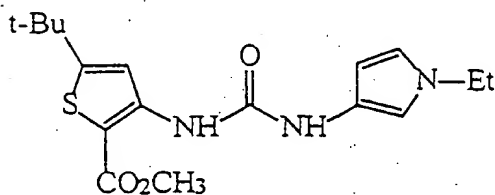
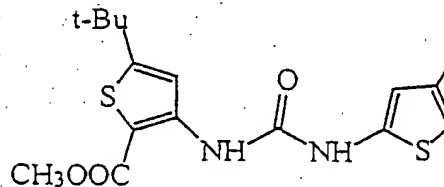
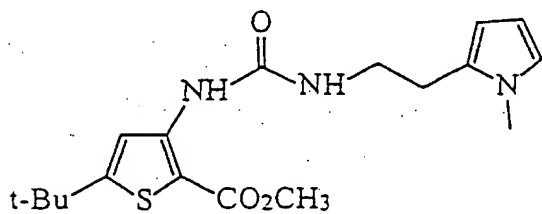
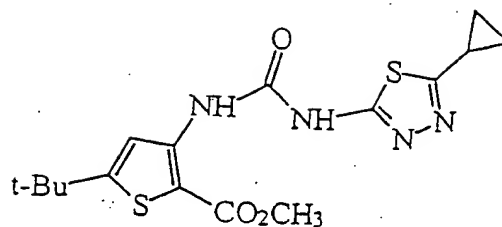
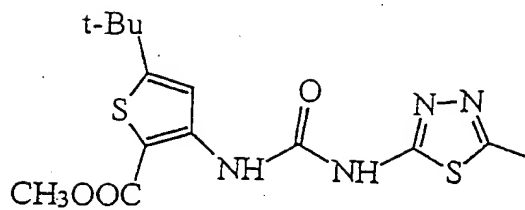
25. A compound of the formulae

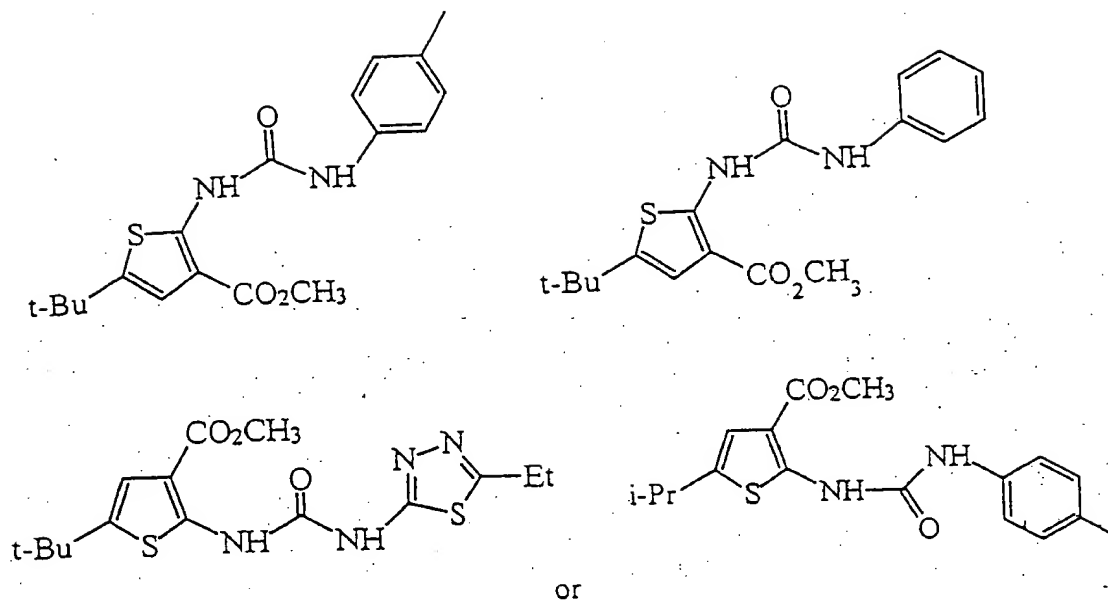


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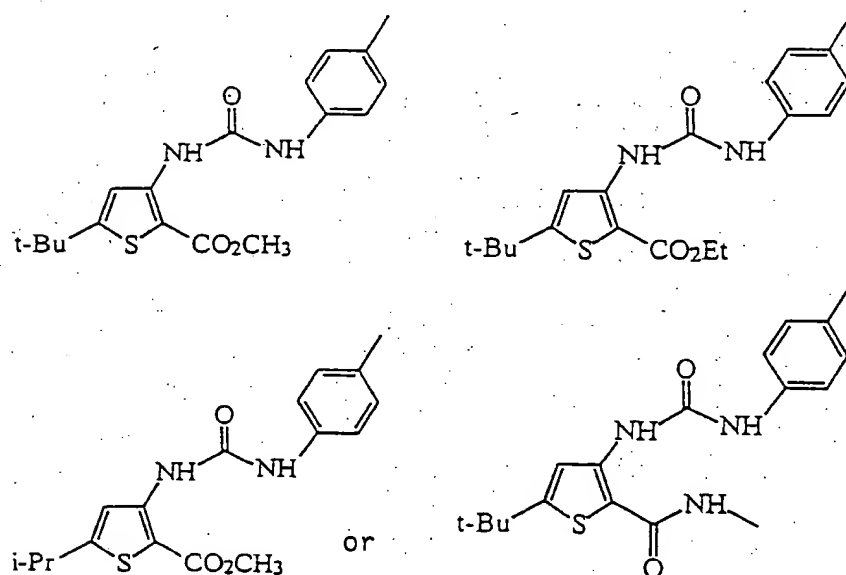




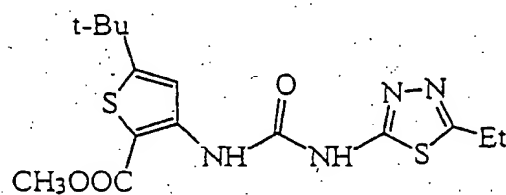
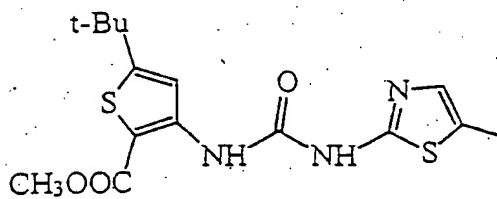
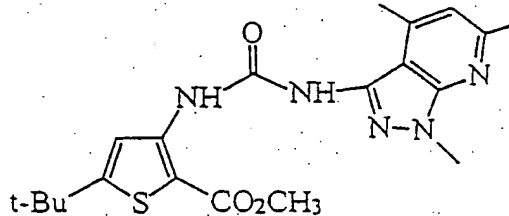
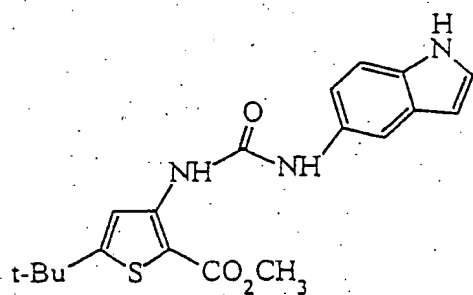
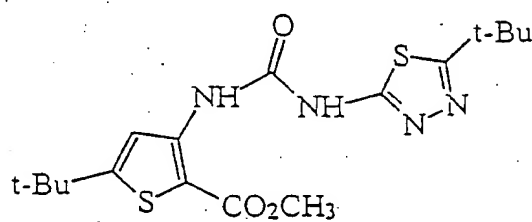
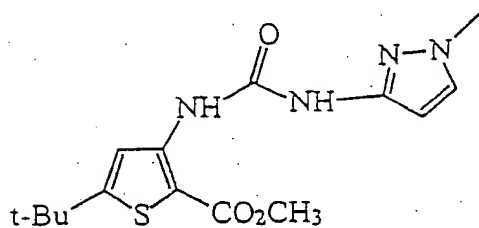
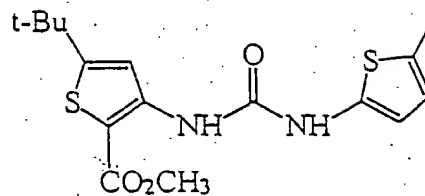
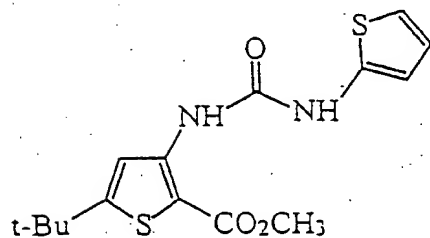
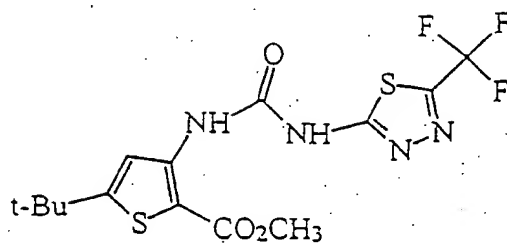


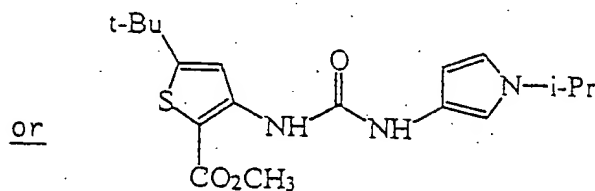
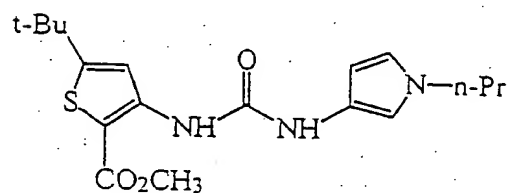
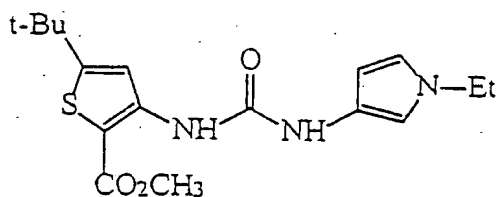
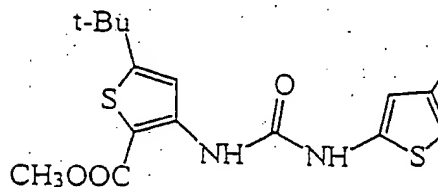
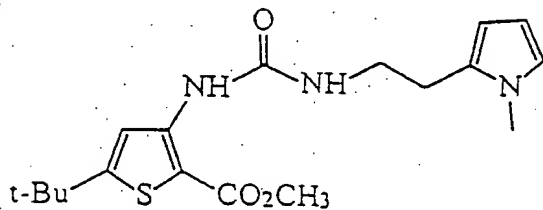
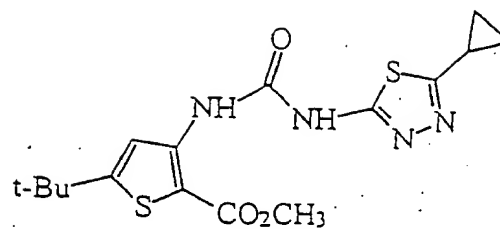
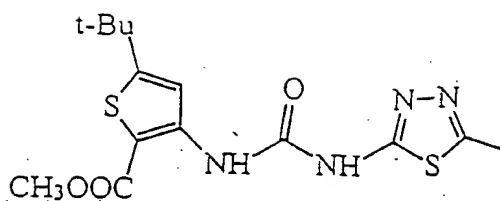


26. A compound according to claim 25, of the formulae

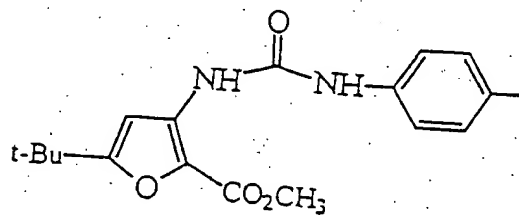


27. A compound according to claim 25, of the formulae

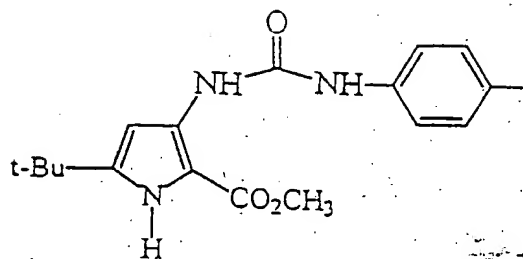




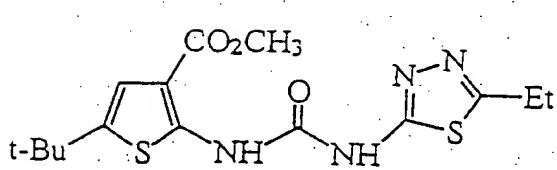
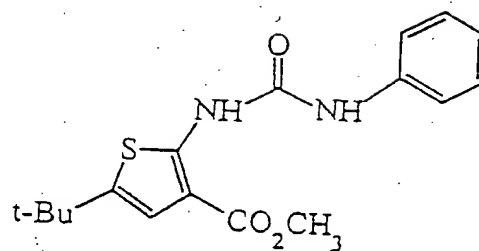
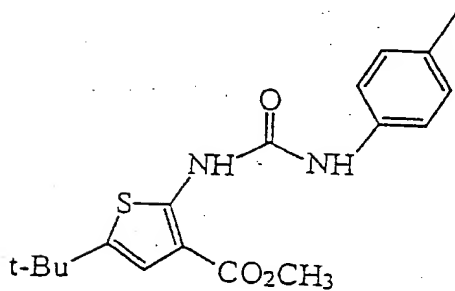
28. A compound according to claim 25, of the formula



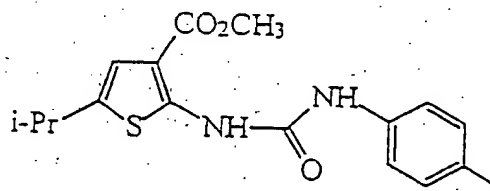
29. A compound according to claim 25, of the formula



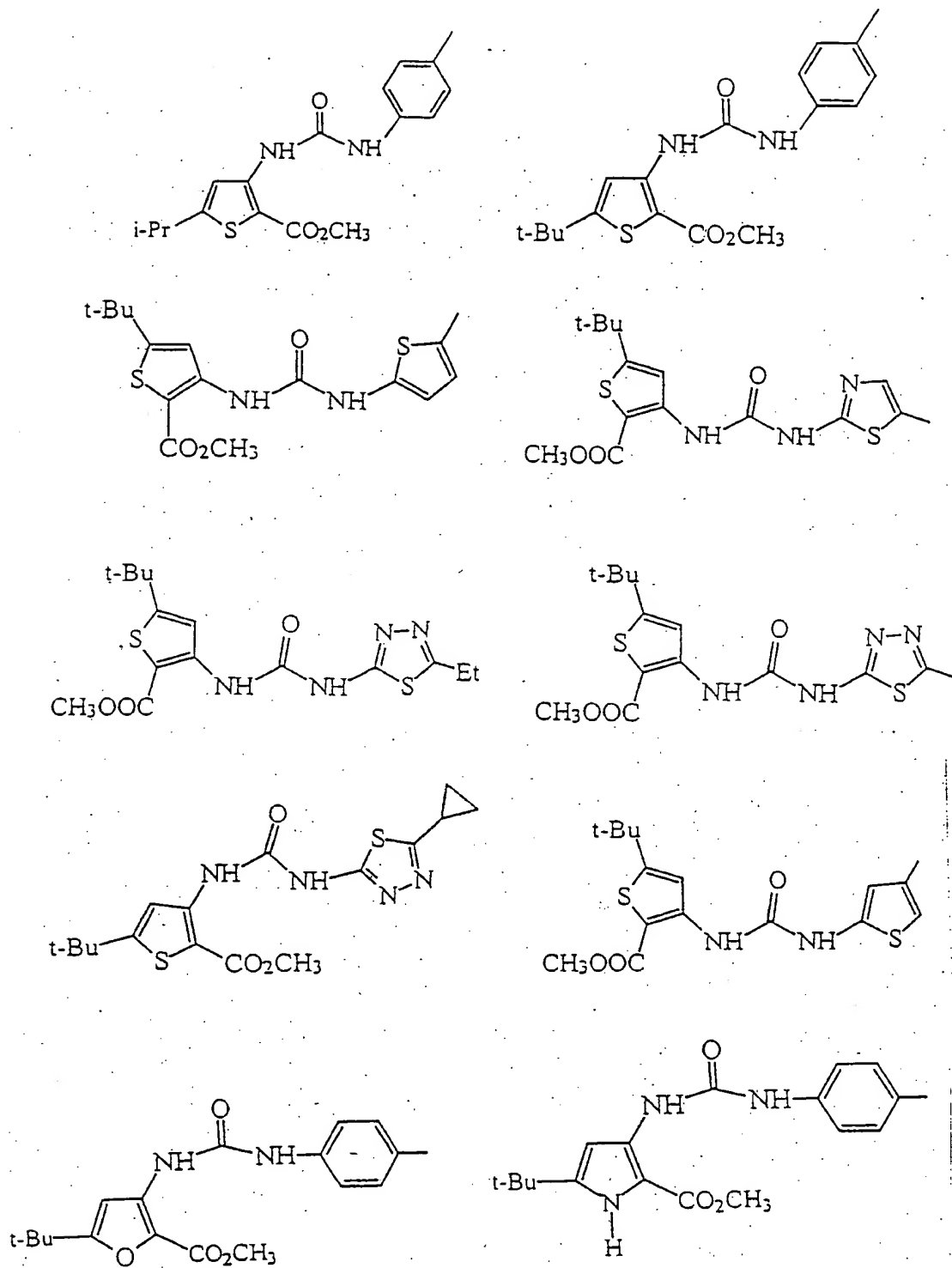
30. A compound according to claim 25, of the formulae



or



31. A compound according to claim 25, of the formulae



or

